

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

De Lage Landen Financial Services, Inc.	:	
	:	
	Plaintiff	CIVIL ACTION NO. 02-CV-2810
and	:	HON. RONALD L. BUCKWALTER
	:	
Toshiba America Medical Systems, Inc.	:	
	:	
Intervenor Plaintiff	:	
	:	
vs.	:	
	:	
DeSoto Diagnostic Imaging, LLC., Randon J.	:	
Carvel, Lynn T. Carvel, Delta Radiology, P.C.	:	
and Zobar Properties, LLC.	:	
Defendants	:	
	:	

ORDER

AND NOW, upon consideration of Defendants' Motion in Limine to Preclude Evidence Related to the Master Lease, or in the alternative, to instruct the jury that the Master Lease is not an effective or binding contract ("Motion in Limine"), and the Response of Plaintiff, DeLage Landen Financial Services, Inc., thereto, and the record before this Court, it is hereby ORDERED that Defendants' Motion in Limine is DENIED, with prejudice.

BY THE COURT:

HONORABLE RONALD L. BUCKWALTER

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

De Lage Landen Financial Services, Inc.	:	
	:	
Plaintiff,	:	CIVIL ACTION NO. 02-CV-2810
v.	:	
	:	Honorable Ronald L. Buckwalter
Toshiba America Medical Systems, Inc.	:	
	:	
Intervenor Plaintiff,	:	
v.	:	
	:	
DeSoto Diagnostic Imaging, LLC., Randon J.	:	
Carvel, Lynn T. Carvel, Delta Radiology, P.C.	:	
and Zobar Properties, LLC.	:	
	:	
Defendants.	:	

**PLAINTIFF'S MEMORANDUM OF LAW IN OPPOSITION TO
DEFENDANTS' MOTION IN LIMINE TO PRECLUDE EVIDENCE RELATED TO
THE MASTER LEASE AGREEMENT**

McCARTER & ENGLISH, LLP
Rosetta B. Packer (Attorney ID No. 28357)
Peter J. Boyer (Attorney ID No. 25517)
Kevin J. Burke (Attorney ID No. 87214)
Mellon Bank Center
1735 Market Street, Suite 700
Philadelphia, PA 19103
(215) 979-3800

Attorneys for Plaintiff
De Lage Landen Financial Services, Inc

I. PRELIMINARY STATEMENT AND PROCEDURAL HISTORY

Plaintiff, De Lage Landen Financial Services, Inc. (“DLL”) hereby relies upon the facts sets forth in the Statement of Undisputed Facts set forth in DLL’s Memorandum of Law in Support of DLL’s Opposition to Defendants’ Motion for Summary Judgment Against DLL, a copy of which is attached hereto as Exhibit “A”.

II. ARGUMENT

A. The Court Has Already Denied Defendants’ Arguments Regarding The Validity Of The Master Lease.

Defendants argue in their memorandum of law in support of their Motion in Limine to Preclude Evidence Related to the Master Lease (“Motion in Limine”) that the Master Lease was never effective. Defendants raised the exact same arguments, almost verbatim, in their memorandum of law in support of their motion for summary judgment against DLL filed on April 12, 2004. On May 5, 2004, this Court denied Defendants’ motion for summary judgment against DLL in its entirety. For the same reasons, Defendants’ Motion in Limine must be denied.

B. The Master Lease Was Properly Executed.

DLL opposes Defendants’ requests to preclude the Master Lease as evidence at trial and Defendants’ alternative request for a limiting instruction informing the jury that the Master Lease is not an effective or binding contract and relies upon the legal arguments set forth in its Memorandum of Law in Opposition to Defendants’ Motion for Summary Judgment, attached hereto as Exhibit “A”.

II. CONCLUSION

For the foregoing reasons, DLL respectfully requests that Defendants' Motion in Limine to Preclude Evidence Related to the Master Lease Agreement be denied.

Respectfully submitted
McCARTER & ENGLISH, LLP

Rosetta B. Packer (Attorney ID No. 28357)
Peter J. Boyer (Attorney ID No. 25517)
Kevin J. Burke (Attorney ID No. 87214)
Mellon Bank Center
1735 Market Street, Suite 700
Philadelphia, PA 19103
(215) 979-3800

Dated: May 12, 2004

Attorneys for Plaintiff
De Lage Landen Financial Services, Inc

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

De Lage Landen Financial Services, Inc.	:	
	:	CIVIL ACTION NO. 02-CV-2810
	Plaintiff :	
and	:	HON. RONALD L. BUCKWALTER
	:	
Toshiba America Medical Systems, Inc.	:	
	:	
Intervenor Plaintiff	:	
	:	
vs.	:	
	:	
DeSoto Diagnostic Imaging, LLC., Randon J.	:	
Carvel, Lynn T. Carvel, Delta Radiology, P.C.	:	
and Zobar Properties, LLC.	:	
	:	
Defendants	:	
	:	

CERTIFICATE OF SERVICE

I, Peter J. Boyer, Esquire, hereby certify that on May 12, 2004, I caused a true copy of the foregoing Plaintiff's Memorandum of Law in Opposition to Defendants' Motion in Limine to Preclude Evidence Related to Master Lease Agreement, Exhibits and Proposed Form of Order in support thereof, to be served upon the following counsel in this action:

John Chesney, Esquire
Drinker Biddle & Reath, LLP
One Logan Square
18th & Cherry Streets
Philadelphia, PA 19103
Via Hand Delivery

William Matthews, Esquire
Saul Ewing LLP
Centre Square West
1500 Market Street, 38th Floor
Philadelphia, PA 19102
Via Hand Delivery

Kyle P. Tate, Esquire
c/o William Matthews, Esquire
Saul Ewing LLP
Centre Square West
1500 Market Street, 38th Floor
Philadelphia, PA 19102
Via Hand Delivery

Lynanne Wescott, Esquire
The Wescott Law Firm
Two Penn Center Plaza, Suite 200
Philadelphia, PA 19102
Via Hand Delivery

PETER J. BOYER